



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AJ05

[NRC-2011-0221]

**List of Approved Spent Fuel Storage Casks:
HI-STORM 100, Revision 8**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is proposing to amend its spent fuel storage cask regulations by revising the Holtec International HI-STORM 100 dry cask storage system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 8 to Certificate of Compliance (CoC) No. 1014. Amendment No. 8 adds a new multipurpose canister (MPC) - 68M to the approved models currently included in CoC No. 1014 with two new boiling water reactor fuel assembly/array classes, and a new pressurized water reactor fuel assembly/class to CoC No. 1014 for loading into the MPC-32. In addition, the amendment makes several other changes as described under the “Background” heading in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: Submit comments by [insert date 30 days after publication in the *Federal Register*]. Comments received after this date will be considered if it is practical to do so, but

the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC-2011-0221 in the subject line of your comments.

For instructions on submitting comments and accessing documents related to this action, see “Submitting Comments and Accessing Information” in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0221. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668, e-mail: Carol.Gallagher@nrc.gov.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.
- **Hand-deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. EST Federal workdays (telephone: 301-415-1677).
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

FOR FURTHER INFORMATION CONTACT: Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6445, e-mail: Gregory.Trussell@nrc.gov.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852

- **NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry

into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to PDR.Resource@nrc.gov.

- **Federal Rulemaking Web Site:** Public comments and supporting materials related to this proposed rule can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0221. For additional information, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

Procedural Background

This rule is limited to the changes contained in Amendment No. 8 to CoC No. 1014 and does not include other aspects of the HI-STORM 100 dry storage cask system. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on **[insert date 75 days after publication in the *Federal Register*]**. However, if the NRC receives significant adverse comments on the direct final rule by **[insert date 30 days after publication in the *Federal Register*]**, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring

republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or Technical Specifications (TSs).

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this *Federal Register*.

Background

On November 28, 2009, and as supplemented on November 4 and December 14, 2010, and February 25 and July 8, 2011, Holtec International, the holder of CoC No. 1014, submitted a certificate amendment request to the NRC requesting an amendment to CoC No. 1014. Specifically, Holtec International requested changes to add a new multipurpose canister (MPC) - 68M to the approved models currently included in CoC No. 1014 with two new boiling water reactor fuel assembly/array classes, and a new pressurized water reactor fuel assembly/class to CoC No. 1014 for loading into the MPC-32. In addition, the amendment would change 1) Condition 5 of CoC No. 1014 to add “if applicable” after the reference to Section 3.5 of Appendix B, “Cask Transfer Facility (CTF)” to clarify that the CTF is an optional facility; 2) Appendix A, TS 1.1, to modify the CTF definition to clarify that it could be used in lieu of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 controlled structures for cask transfer evolutions; and 3) Table 3-1, MPC Cavity Drying Limits, to include the previously approved, but omitted table to eliminate inconsistencies between Table 3-1 and TS 3.1.1, Limiting Condition for Operation.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended, and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241,

sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate No.: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: **[insert date 75 days after publication in the *Federal Register*].**

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System.

Docket Number: 72-1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI-STORM 100.

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Dated at Rockville, Maryland, this 25th day of January, 2012.

For the Nuclear Regulatory Commission.

R. W. Borchardt
Executive Director for Operations

[FR Doc. 2012-3682 Filed 02/16/2012 at 8:45 am; Publication Date: 02/17/2012]